

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

Mr. S. Gopalakrishnan
Chief Executive Officer
Infosys Technology Limited
6607 Kaiser Drive
Freemont, CA 94555

April 1, 2008

Dear Mr. Gopalakrishnan,

We write to inquire about your company's use of H-1B and L-1 visas. Congress intended these visa programs to benefit the American economy by allowing U.S. employers to import high-skilled or highly-specialized workers when needed to complement the domestic workforce. However, we are concerned that these programs, as currently structured, are facilitating the outsourcing of American jobs.

As you know, today is the deadline for filing H-1B visa petitions. If past years are any guide, enough applications will be filed today to exhaust the annual allotment of H-1B visas. We understand that many employers would like Congress to make more H-1B visas available. However, we must be mindful of the impact importing more foreign workers will have on American workers, especially in light of the recent economic downturn.

We believe that before increasing the H-1B cap, Congress must close loopholes in the H-1B and L-1 programs that harm American workers. For example, under current law only employers that employ H-1B visa holders as a large percentage of their U.S. workforce are required to attempt to recruit American workers before hiring a H-1B visa holder. Most companies can explicitly discriminate against American workers by recruiting and hiring only H-1B visa holders. As the U.S. Department of Labor (DOL) has said: "H-1B workers may be hired even when a qualified U.S. worker wants the job, and a U.S. worker can be displaced from the job in favor of a foreign worker."

Additionally, we are concerned that some companies may be circumventing the requirements of the H-1B visa program by using other visa programs, such as the L-1, to bring in cheaper foreign labor. While the L-1 visa program allows intercompany transfers to enter the United States, experts have concluded that some companies use the L-1 visa to bypass even the minimal protections for American workers that are in the H-1B program.

We have introduced S.1035, the H-1B and L-1 Visa Fraud and Abuse Prevention Act of 2007. This bipartisan legislation would reform the H-1B and L-1 visa programs to prevent abuses and protect American companies and workers. For example, S.1035 would require all employers seeking to hire an H-1B visa holder to first make a good-faith effort to hire an American worker.

According to statistics recently released by U.S. Citizenship and Immigration Services, your company was one of the top 25 recipients of approved H-1B petitions in 2007. Understanding your company's use of high-skilled visas would help to inform further our views of the H-1B and L-1 visa programs. Accordingly, we would appreciate your responses to the following questions:

1.
 - a. For each of the last five fiscal years and fiscal year 2009, how many H-1B visa petitions have you submitted to USCIS and how many of these petitions have been approved?
 - b. For each of the last five fiscal years, how many people have you employed in the U.S. and outside the U.S.?
 - c. For each of the last five fiscal years, how many U.S. citizens, H-1B visa holders, L-1A, and L-1B visa holders, and other foreign nationals have you employed in the U.S. and outside the U.S.? If you have employed other foreign nationals in the U.S., please specify the type of visas held by such nationals.
2.
 - a. For each of the last five fiscal years, have you been a H-1B dependent employer?
 - b. Would you support legislation prohibiting a company from hiring additional H-1B visa holders if the company employs more than 50 people and more than 50% of the company's employees are H-1B and L-1 visa holders? Please explain.
3.
 - a. For each of the last five fiscal years, how many Labor Condition Applications (LCA) have you submitted to DOL and how many of these LCAs have been approved? How many H-1B visa holders were covered by these LCAs?
 - b. If DOL denied any LCAs you submitted, what reasons did DOL give for the denial?
 - c. If you are a H-1B dependent employer, for how many LCAs have you claimed an exemption from the requirements to make a good-faith effort to recruit American workers and not to displace American workers (i.e. Alternative C in section F-1 of the LCA)? How many H-1B visa holders were covered by these exempt LCAs?

4.

- a. Please provide a detailed description of your recruitment process for open positions, including any relevant company policies and where you advertise.
- b. Do you give priority to U.S. citizens when filling open positions? Do you make a good-faith effort to recruit U.S. citizens for open positions before recruiting foreign nationals? If yes, please provide a detailed description of these efforts.
- c. Would you support legislation requiring all employers seeking to hire an H-1B visa holder first to make a good-faith effort to hire an American worker? Please explain.
- d. Would you support legislation requiring all employers seeking to hire an H-1B visa holder first to advertise the job opening for a reasonable period of time on a website operated by DOL? Please explain.

5.

- a. Are there any positions for which you only recruit or give priority to foreign nationals?
- b. Are there any positions for which you advertise that you will only hire foreign nationals and/or H-1B visa holders?
- c. Would you support legislation requiring that employers may not advertise a job as available only for H-1B visa holders or recruit only H-1B visa holders for a job? Please explain.

6.

- a. For each of the last five fiscal years, how many foreign workers, H-1B visa holders, L-1A, and L-1B visa holders have you sponsored for employment-based legal permanent residency?
- b. How many such applications are pending?
- c. For each of the last five fiscal years, how many of your H-1B, L-1A, and L-1B employees have received employment-based green cards?

7.

- a. For each of the last five fiscal years, how many employees have you terminated outside the U.S.?
- b. For each of the last five fiscal years, how many employees have you terminated in the U.S.?
- c. How many of these employees were U.S. citizens?
- d. Did H-1B visa holders replace or take over the job responsibilities of any of these terminated employees?
- e. Would you support legislation prohibiting all employers from displacing an American worker with a H-1B visa holder? Please explain.

8.

- a. For each of the last five fiscal years, how many of your H-1B and L-1 employees have you contracted to other companies?
- b. How many such employees have you contracted on a full-time basis?
- c. For each of the last five fiscal years, please provide a list of the companies to whom you have contracted your H-1B or L-1 employees and how many H-1B and L-1 employees you have contracted to each of these companies.
- d. Have any employees of companies to whom you have contracted your H-1B or L-1 employees been displaced by these employees?
- e. How do you determine whether you are involved in secondary displacement, i.e. your H-1B or L-1 employees are displacing employees of a contractor company?
- f. Would you support legislation prohibiting all employers from engaging in secondary displacement?

9.

- a. What positions do your current H-1B employees fill?
- b. How many of your current H-1B employees received higher education degrees in the U.S.?
- c. How many of your current H-1B employees entered the U.S. for the purpose of working for your company?
- d. What is the average age of your current H-1B employees?
- e. What is the average level of experience of your current H-1B employees?
- f. What is the average length of stay in the U.S. of your current H-1B employees?
- g. How many of your current H-1B employees are skill level one, two, three, and four?
- h. What are the mean, median, highest, and lowest salaries of your current H-1B employees?
- i. What are the mean, median, highest, and lowest salaries of your company's U.S. citizen employees who are situated similarly to your H-1B employees?

10.

- a. What positions do your current L-1A and L-1B employees fill?
- b. What is the average age of your current L-1A and L-1B employees?
- c. What is the average level of experience of your current L-1A and L-1B employees?
- d. What is the average length of stay in the U.S. of your current L-1A and L-1B employees?
- e. What are the mean, median, highest, and lowest salaries of your current L-1A and L-1B employees?
- f. What are the mean, median, highest, and lowest salaries of your company's U.S. citizen employees who are situated similarly to your L-1A and L-1B employees?

11.

- a. Have you received any complaints from your H-1B and/or L-1 employees about unfair hiring practices, wages, or work conditions? If so, please provide details.
- b. Have you received any complaints from your American employees about your company's use of the H-1B or L-1 visa programs? If so, please provide details.

Thank you for your time and consideration.

Sincerely,



Richard J. Durbin



Charles E. Grassley